

February 12, 2009

TO: Members of the Montana House Judiciary Committee  
FROM: Edwin L. Stickney, M.D.  
RE: HB 473

I am a licensed Montana physician and past president of the Montana Medical Association.

I write to urge you to reject HB 473.

I wish I could attend your hearing to comment and answer questions in person, but my schedule interferes. However, I want all committee members to know that I would welcome the opportunity to talk with you about this before you take action on HB 473. Please feel free to call me at the phone number listed below.

It seems to me that the author of HB 473 doesn't understand the extraordinary medical significance of marijuana, and views the subject exclusively through the lens of our nation's past prohibition policies. This is unfortunate, and as a result, HB 473 proposes purely punitive "solutions" to problems that don't actually exist.

The bill as introduced completely undermines the decision Montana voters made in 2004, to allow patients who suffer from certain conditions, with a physician's approval, to use medical marijuana without fear of arrest or incarceration.

Let me explain why I hope you'll oppose each of HB 473's key features:

HB 473 takes a literally unprecedented approach in denying potential patient status to anyone with a drug felony record, without regard to any of a patient's specifics. But in no other context have we ever even considered, much less enacted, a ban on people found guilty of some kind of drug-related offense (either years ago or tomorrow) from receiving any prescription drug they might come to need for medical reasons. The fact that this bill would do so – but only for medical marijuana patients – betrays HB 473's faulty spirit and purpose, it seems to me. The bill doesn't care about the specifics of a patient's medical circumstances, and it doesn't care about the specifics of a patient's past (or future) drug-related offense. I'm not an attorney, but this aspect of the bill seems unconstitutional in its application to only one kind of medicine, with no room for any kind of case-by-case assessment.

HB 473 also would revoke registration from a patient found to possess more than one ounce of marijuana at a time. I am no expert on growing medical marijuana, but I DO know that when first harvested from a plant, the medicine is moist and heavy; once it dries and can be used as medicine, it is much lighter in weight. Technically speaking, it would be easy for a patient to be temporarily in violation of the current medical marijuana law while the next "batch" of medicine is drying. But under current law, a patient in this circumstance could be prosecuted but also could

explain his or her situation – whereas under HB 473 the patient would immediately and permanently lose his or her patient status, and would become subject to the criminal sections of Montana drug law, not the state's medical marijuana law. Again, in this way HB 473 is unprecedented and seems to target medical marijuana patients in an entirely unfair way. Current law already allows the arrest and prosecution of patients who possess more than the allowable amounts of marijuana, but it also provides a rational approach to assessing punishment that HB 473 overwhelms.

I must also object strenuously to the portion of HB 473 (page 4) that seems to target physicians. It is important to understand that Montana's existing medical marijuana law already requires that physician judgments occur entirely in conformance with federal and state laws that prohibit negligence, fraud and other kinds of offenses – and current law already provides a rational and well-proven system for addressing these situations. HB 473 won't contribute productively to this system; instead, it will greatly confuse the system – but only where one kind of medicine is concerned, medical marijuana. In connection to this serious problem, HB 473 also would create a new responsibility for physicians that is unprecedented – to know accurately all the facts and ramifications of their patients' legal circumstances, not merely their medical needs.

HB 473 is alarming to anyone who understands the truth about medical marijuana.

In my experience there are patients suffering from numerous conditions for whom medical marijuana can be the most helpful medicine available. Indeed, for some medical conditions, it can be a serious mistake – and risk – if medical marijuana is *not* used. This would include patients who suffer from Multiple Sclerosis, glaucoma and arthritis, which scientific research has proven can be prevented from worsening when marijuana is used. These are by no means the only examples, however. Patients who suffer chronic severe pain, as another example, often can achieve better relief with far lower side effects and risks, by using marijuana rather than prescription pain relievers. Indeed, I have worked with such patients who have reduced or entirely eliminated their need for risky pain relievers when using medical marijuana instead. These same principles can apply to a great many patients who suffer from various forms of cancer, particularly those enduring chemotherapy.

Montana voters supported medical marijuana because they understand that these decisions are best left to patients and their physicians, not the government. Voters of both political parties understood that people of all kinds, of all political persuasions and all backgrounds, can be struck by medical conditions whose suffering can be reduced by medical marijuana. HB 473 would completely undermine and negate the meaning of this voter decision.

Edwin L. Stickney M.D.

1400 Poly Dr Apt 8BC

Billings, MT 59102-1795

406-896-1100